

Attachment 11D(1)

Explanatory Note for Bureau of Indian Affairs February 1, 2010

This memorandum transmits Indian Affairs' (IA) report to the Council on Environmental Quality, fulfilling Section 1609 reporting requirements of the American Recovery and Reinvestment Act of 2009 (ARRA). The five funded programs are School Replacement (SR), Detention Centers (DC), School Improvement and Repair (MIR), Housing Improvement Program (HIP) and Road Repair and Restoration. The report documents the progress on the NEPA work being done for 840 funded ARRA projects. This report, there are four fewer projects than the previous report, because three proposed housing projects and one MIR project will not be funded. Significant progress was made since the last report. IA completed 17 percent of the total environmental requirements in the last reporting cycle, this reporting cycle IA has achieved a 37 percent completion rate and expects to exceed that increase in the next reporting period. The review for NEPA actions pending for more than one reporting period are provided below. There is an increase of \$132,000 in Appropriations to the HIP Program, which was redirected from the appropriated funds used for administration of projects.

SR, DC and MIR Projects

The Office of Facilities Management and Construction has responsibility for five SR, five DC and 114 MIR projects and for compliance with the National Environmental Policy Act (NEPA). At this reporting, 54 Categorical Exclusions (CE) and nine Environmental Assessments (EA) are pending. One MIR project was withdrawn (row 28) in the Navajo Region. No new projects were added.

Three MIR projects previously listed as CE's have become EA's (row 25) in the Great Plains Region due to increased scope, extensive new excavation and new construction on a new location.

Several of the projects are NEPA pending due to continuing consultation under Section 106 of the National Historic Preservation Act (NHPA). Many school facilities scheduled for renovation, replacement, or demolition have buildings over 50 years of age. Section 106 Consultation resulted in determinations that some of these buildings are eligible for listing on the National Register of Historic Places. The NEPA remains "pending" because the FONSI or CE depends on completed Section 106 consultation. The benefits of Section 106 consultation for these projects include preservation of historic buildings and districts that represent unique examples from historic periods in American history, and also the assurance that structural changes on these campuses may legally proceed without altering significant historic resources.

In a few cases, project design criteria have evolved, or developed after consultation with the tribe and/or school board. Thus, the federal action could not be adequately described for NEPA until the end of this reporting period. In many of these cases, the NEPA compliance work has been made part of the Project Design Statement of Work to be completed by an Architect and

Engineer contractor. NEPA completion for most of these is expected within the next reporting cycle. A clear well-defined description of the action is necessary before pursuing NEPA compliance. This has the benefit of ensuring the EA will not have to go through multiple amendments, potentially delaying construction bidding.

HIP Projects

The Bureau of Indian Affairs, HIP manages the NEPA process in coordination with tribes receiving recovery funds for home construction projects. In the HIP, there are currently 15 CEs and 114 EAs pending. No projects were added during this reporting period. The quantity of projects for the Crow Tribe on the initial project list has been changed from 15 to 12 (row 46). After negotiations with the Tribe, it was determined the estimated amount funds available would be sufficient to construct 12 homes rather than the estimated 15.

Many of the projects listed as EAs or CEs are pending due to Section 106 NHPA consultations. Many of the projects are new construction and will require breaking ground where there is no prior existing footprint to construct a dwelling. Section 106 consultations with Tribal or State Historical Preservation Offices continues, and the NEPA will remain “pending” because the FONSI or CE depends on a completed Section 106 consultation.

The benefits of pursuing the NEPA compliance process for each of the reservation’s ARRA projects include impacts to the resources of tribal lands to avoid or minimize potential damage to the environment.

Road Repair and Restoration Projects

The Bureau of Indian Affairs Division of Transportation manages and has responsibility for NEPA compliance for the 541 Road Repair and Restoration projects. A CE review is being completed for all of these projects, 336 are pending at this time. In some cases the projects have needed to be better defined in order to complete the CE and in some Regions snow cover is hampering environmental and archaeological field reviews. Some road projects may also be withdrawn during the next reporting period.